

1 **AN ACT** *to amend* 6.87 (4) of the statutes; **relating to:** requiring a witness for
 2 absentee voting to be an adult U.S. citizen.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the joint legislative council's special committee on election law review.

Under current law, military and overseas voters who cast absentee ballots must have a witness who is an adult U.S. citizen. All other absentee ballots must have a witness, but the age and nationality of the witness is not specified. This bill would require all absentee ballots to be witnessed by an adult U.S citizen.

The draft contains an effective date of January 1, 2006.

3 **SECTION 1.** 6.87 (4) of the statutes, as affected by 2001 Wisconsin Act 265, section 112a,
 4 is amended to read:

5 6.87 (4) Except as otherwise provided in s. 6.875, the elector voting absentee shall make
 6 and subscribe to the certification before one witness who is an adult U.S. citizen. The absent
 7 elector, in the presence of the witness, shall mark the ballot in a manner that will not disclose
 8 how the elector's vote is cast. The elector shall then, still in the presence of the witness, fold
 9 the ballots so each is separate and so that the elector conceals the markings thereon and deposit
 10 them in the proper envelope. If a consolidated ballot under s. 5.655 is used, the elector shall
 11 fold the ballot so that the elector conceals the markings thereon and deposit the ballot in the
 12 proper envelope. If the elector has registered by mail and has not, or is not certain whether
 13 the elector has, previously voted in an election for national office in this state, the elector shall
 14 enclose identification in the envelope. Identification is required if the elector is not a military
 15 elector or an overseas elector, as defined in s. 6.36 (2) (c), and the elector registered by mail

+ Am, 6.22(2)(b) delete NW s. 6.87(4) -
 6.24(4)(d) " " "

1 and has not voted in an election for national office in the municipality where the elector is
2 voting. The elector may receive assistance under sub. (5). The return envelope shall then be
3 sealed. The witness may not be a candidate. The envelope shall be mailed by the elector,
4 postage prepaid, or delivered in person, to the municipal clerk issuing the ballot or ballots.
5 Failure to return an unused ballot in a primary does not invalidate the ballot on which the
6 elector's votes are cast. Return of more than one marked ballot in a primary or return of a ballot
7 prepared under s. 5.655 or a ballot used with an electronic voting system in a primary which
8 is marked for candidates of more than one party invalidates all votes cast by the elector for
9 candidates in the primary.

10 **SECTION 2. Effective dates.** This act takes effect on January 1, 2006.

11 (END)

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- 1 **AN ACT** *to amend* 6.87 (4); and *to create* 6.86 (1) (ac) of the statutes; **relating to:**
2 requesting an absentee ballot by electronic mail or facsimile transmission.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, any elector who is unable or unwilling to appear at the polling place in his or her ward on election day may vote by absentee ballot. An elector seeking to vote by absentee ballot must generally make a written application to the municipal clerk. An application may be made by one of the following methods: (1) by mail; (2) in person at the office of the municipal clerk; (3) by signing a statement indicating the elector is indefinitely confined or disabled; (4) by agent when the elector is hospitalized; or (5) by delivering an application to a special voting deputy when the elector is an occupant of a nursing home and similar facilities.

This draft authorizes a registered elector, including a registered "overseas elector", or an elector who qualifies as a "military elector" who is unable or unwilling to appear at the polling place in his or her ward on election day to apply for an absentee ballot by making a written application to the municipal clerk by facsimile transmission (fax) or electronic mail (email). The application must contain a copy of the applicant's original signature. When the ballot is returned, the elector must enclose a copy of the request bearing an original signature of the elector along with the ballot. Ballots cast in contravention of this procedure may not be counted.

This draft contains an effective date of January 1, 2006.

- 3 ~~SECTION 1.~~ *6.86 (1) (a) 6. by electronic mail or facsimile transmission as provided in par. (a)*
4 6.86 (1) (ac) Any ~~registered~~ elector qualifying under ss. ~~6.20 and 6.85~~ as an absent
5 elector, or any military elector under s. ~~6.22 or 6.36 (2) (c) 1-a.~~, may make written application
6 to the municipal clerk for an official ballot by means of facsimile transmission or electronic

1 mail. Any application under this paragraph shall contain a copy of the applicant's original
2 signature. An elector requesting a ballot under this paragraph shall return with the voted ballot
3 a copy of the request bearing an original signature of the elector as provided in s. 6.87 (4).

NOTE: A "military elector" under s. 6.22, stats., for purposes of this draft means any of the following:

1. Members of a uniformed service;
2. Members of the merchant marine of the United States.
3. Civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States.
4. Peace corps volunteers.
5. Spouses and dependents of those listed in the above categories residing with or accompanying them.

"Military elector" under s. 6.36 (2) (c) 1. a. means a member of a uniformed service on active duty who, by reason of that duty, is absent from the residence where the member is otherwise qualified to vote; a member of the merchant marine, as defined in s. 6.22 (1) (a), who by reason of service in the merchant marine, is absent from the residence where the member is otherwise qualified to vote; or the spouse or dependent of any such member who, by reason of the duty or service of the member, is absent from the residence where the spouse or dependent is otherwise qualified to vote.

"Uniformed service" means the U.S. army, navy, air force, marine corps or coast guard, the commissioned corps of the federal public health service or the commissioned corps of the national oceanic and atmospheric administration.

4 **SECTION 2.** 6.87 (4) of the statutes, as affected by 2003 Wisconsin Act 265, is amended
5 to read:

6 6.87 (4) Except as otherwise provided in s. 6.875, the elector voting absentee shall make
7 and subscribe to the certification before one witness. The absent elector, in the presence of
8 the witness, shall mark the ballot in a manner that will not disclose how the elector's vote is
9 cast. The elector shall then, still in the presence of the witness, fold the ballots so each is

1 separate and so that the elector conceals the markings thereon and deposit them in the proper
2 envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so
3 that the elector conceals the markings thereon and deposit the ballot in the proper envelope.
4 If the elector has registered by mail and has not, or is not certain whether the elector has,
5 previously voted in an election for national office in this state, the elector shall enclose
6 identification in the envelope. Identification is required if the elector is not a military elector
7 or an overseas elector, as defined in s. 6.36 (2) (c), and the elector registered by mail and has
8 not voted in an election for national office in this state. If the elector requested a ballot by
9 means of facsimile transmission or electronic mail under s. 8.86 (1) (ac), the elector shall
10 enclose in the envelope a copy of the request which bears an original signature of the elector.
11 The elector may receive assistance under sub. (5). The return envelope shall then be sealed.
12 The witness may not be a candidate. The envelope shall be mailed by the elector, postage
13 prepaid, or delivered in person, to the municipal clerk issuing the ballot or ballots. Failure to
14 return an unused ballot in a primary does not invalidate the ballot on which the elector's votes
15 are cast. Return of more than one marked ballot in a primary or return of a ballot prepared
16 under s. 5.655 or a ballot used with an electronic voting system in a primary which is marked
17 for candidates of more than one party invalidates all votes cast by the elector for candidates
18 in the primary.

19 **SECTION 3. Effective date.** This Act takes effect on January 1, 2006.

20 (END)

1 **AN ACT** *to amend* 6.29 (2) (a) of the statutes; **relating to:** late voter registration in the
2 municipal clerk's office.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, registration for any election must close at 5 p.m. on the second Wednesday preceding the election. Registration may be accepted after this deadline if the municipal clerk determines that the registration list can be revised to incorporate the registration in time for the election.

A person may also register to vote after the official date for the close of registration. Generally, a person may register late by filing with the municipal clerk a registration form completed by the person and acceptable proof of residence or corroboration of residence by one other elector of the municipality. The registration form must be filed in person no later than 5 p.m. or the close of business, whichever is later, on the day before the election. Unless the clerk determines that the registration list can be updated in time for the election, the municipal clerk must issue to the late-registering person a certificate addressed to the inspectors of the proper ward directing that the elector be permitted to vote. The certificate must be presented by the person to the inspectors when he or she arrives at the polling place.

This draft modifies the deadline for late registration in the clerk's office. Under the draft, late, in-person registration must be completed by 5 p.m. or the close of business, whichever is later, on the Friday before an election.

This draft contains an effective date of January 1, 2006.

3 **SECTION 1.** 6.29 (2) (a) of the statutes is amended to read:
4 **6.29 (2) (a)** Any qualified elector of a municipality who has not previously filed a
5 registration form or whose name does not appear on the registration list of the municipality

1 may register after the close of registration but not later than 5 p.m. or the close of business,
2 whichever is later, on the day Friday before an election at the office of the municipal clerk and
3 at the office of the clerk's agent if the clerk delegates responsibility for electronic maintenance
4 of the registration list to an agent under s. 6.33 (5) (b). The elector shall complete, in the
5 manner provided under s. 6.33 (2), a registration form containing all information required
6 under s. 6.33 (1). The elector shall also provide acceptable proof of residence under s. 6.55
7 (7). Alternatively, if the elector is unable to provide acceptable proof of residence under s. 6.55
8 (7), the information contained in the registration form shall be corroborated in a statement that
9 is signed by any other elector of the municipality and that contains the current street address
10 of the corroborating elector. The corroborating elector shall then provide acceptable proof of
11 residence under s. 6.55 (7).

12 **SECTION 2. Effective date.** This act takes effect on January 1, 2006.

13 (END)

- 1 **AN ACT** *to amend* 7.41 and 12.03 (1), (2) and (4) of the statutes; **relating to:**
2 observation and electioneering activities in the office of the municipal clerk.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Observers

Under current law, any member of the public may be present at any polling place for the purpose of observing an election, except a candidate at that election. The chief inspector at the polling place is authorized to "reasonably limit" the number of persons representing the same organization who are permitted to observe an election at the same time. In addition, the chief inspector is authorized to restrict the location of observers to certain areas at a polling place. Such an area is to be clearly designated as an observation area. Observation areas must be positioned to allow observers to readily observe all public aspects of the voting process.

The statutes authorize a chief inspector to order the removal from a polling place of any observer who commits an overt act which either disrupts the operation of the polling place or who engages in electioneering in violation of s. 12.03 (2), stats.

Under the statutes, an observer may not view the confidential portion of a registration list relating to an individual who has obtained a confidential listing based on domestic abuse. However, the poll workers must disclose to an observer, upon request, the existence of such a list, the number of electors whose names appear on the list, and the number of those electors who have voted at any point during the election. In addition, an observer may not view the certificate of an absent elector who has obtained such a confidential listing.

Current law prohibits any person from refusing to obey a lawful order of a poll worker made for the purpose of enforcing the election laws; engaging in disorderly behavior at or near a polling place; or interrupting or disturbing the voting or canvassing proceedings. A person violating

this prohibition may be fined not more than \$1,000, or imprisoned for not more than 6 months, or both.

This draft applies the above observation provisions to the municipal clerk's office on any day that absentee ballots may be cast in that office. However, the observation provisions created by the draft would only apply to offices of municipal clerks that are located in public buildings. Accordingly, these provisions would not apply to clerks whose offices are located in their primary residences. In addition, the prohibition on a "candidate at that election" being an observer is clarified to apply to a candidate whose name appears on the ballot at the polling place or on an absentee ballot to be cast at the clerk's office.

Electioneering

Current law prohibits an election official from engaging in "electioneering" on election day. In addition, the law prohibits any person from engaging in "electioneering" during polling hours on any public property on election day within 100 feet of an entrance to a building containing a polling place. This restriction, though, does not apply to the placement of any material on the bumper of a motor vehicle that is located on such property on election day. A municipal clerk, poll worker, or law enforcement officer is authorized to remove posters or other advertising that violates the prohibitions on "electioneering".

The law defines "electioneering" as any activity that is intended to influence voting at an election. Persons who violate the above prohibitions on electioneering may be fined not more than \$1,000, or imprisoned for not more than 6 months, or both. In addition, any election official who is convicted of violating the electioneering prohibitions is disqualified from acting as an election official for a term of 5 years from the time of the conviction.

The draft extends the prohibitions on electioneering to the municipal clerk's office during times when absentee voting may be conducted in the office. Specifically, the draft prohibits the clerk, an employee of the clerk, or any other person who assists electors cast absentee ballots in the clerk's office from engaging in electioneering activities in the clerk's office during the hours that absentee ballots may be cast in that office. In addition, the draft prohibits any person from engaging in electioneering activities during the hours that absentee ballots may be cast in the municipal clerk's office on any public property within 100 feet of an entrance to a building that contains the clerk's office. Violations of these provisions are subject to the same penalties as provided under current law for electioneering at a polling place.

This draft contains an effective date of January 1, 2006.

(1), (2) and (3) (int.) and (a)

1 **SECTION 1.** 7.41 of the statutes is amended to read:

2 **7.41 Public's right to access. (1)** Any member of the public may be present at any
3 polling place or in the office of any municipal clerk whose office is located in a public building
4 on any day that absentee ballots may be cast in that office for the purpose of observation of
5 an election and the absentee ballot ^{voting} process in the clerk's office, except a candidate whose name
6 appears on the ballot at the polling place or on an absentee ballot to be cast at the clerk's office
7 at that election. The chief inspector or municipal clerk may reasonably limit the number of
8 persons representing the same organization who are permitted to observe an election under
9 this subsection at the same time.

10 **(2)** The chief inspector or municipal clerk may restrict the location of any individual
11 exercising the right under sub. (1) to certain areas within a polling place or within the clerk's
12 office. The chief inspector or municipal clerk shall clearly designate such an area as an
13 observation area. Designated observation areas shall be so positioned to permit any
14 authorized individual to readily observe all public aspects of the voting process.

15 **(3)** The chief inspector or municipal clerk may order the removal of any individual
16 exercising the right under sub. (1) if that individual commits an overt act which:

17 (a) Disrupts the operation of the polling place or the operation of the clerk's office; or

18 ~~(b) Violates s. 12.03 (2).~~

19 **(4)** No individual exercising the right under sub. (1) may view the confidential portion
20 of a registration list maintained under s. 6.36 (4) or a poll list maintained under s. 6.79 (6).
21 However, the inspectors or municipal clerk shall disclose to such an individual, upon request,
22 the existence of such a list, the number of electors whose names appear on the list, and the
23 number of those electors who have voted at any point in the proceedings. No such individual

- 1 may view the certificate of an absent elector who obtains a confidential listing under s. 6.47
2 (2).

NOTE: SECTION 1 extends the provisions of current law relating to the observation of elections to the municipal clerk's office on any day that absentee ballots may be cast in that office. The provisions would apply to such offices located in a public building.

In addition, the SECTION clarifies that the prohibition on observation by a "candidate at that election" applies to a candidate whose name is on the ballot at the polling place or on an absentee ballot to be cast at the clerk's office. Thus, a candidate may not "observe" his or her own election, but may observe at polling places or clerk's offices outside of the election district in which he or she seeks office.

- 3 **SECTION 2.** 12.03 (1), (2) and (4) of the statutes are amended to read:

- 4 **12.03 Election day campaigning Campaigning restricted where votes cast. (1)** No
5 election official may engage in electioneering on election day. No municipal clerk, employee
6 of the clerk, or other person who assists electors cast absentee ballots in the clerk's office may
7 engage in electioneering in the clerk's office during the hours that ballots may be cast in that
8 office.

- 9 **(2)** No person may engage in electioneering during polling hours on any public property
10 on election day within 100 feet of an entrance to a building containing a polling place. No
11 person may engage in electioneering during the hours that absentee ballots may be cast in the
12 municipal clerk's office on any public property within 100 feet of an entrance to a building
13 containing the clerk's office. This subsection does not apply to the placement of any material
14 on the bumper of a motor vehicle that is located on such property on election day or during
15 the hours that absentee ballots may be cast in the clerk's office.

- 16 **(4)** In this section, "electioneering" means any activity which is intended to influence
17 voting at an election or voting by absentee ballot in a municipal clerk's office.

NOTE: This SECTION extends the prohibitions on electioneering applicable to polling places to cover municipal clerk’s offices during the hours that absentee ballots may be cast in those offices. In doing so, the definition of “electioneering” is expanded to include activities intended to influence voting by an absentee ballot in a municipal clerk’s office.

1 **SECTION 3. Effective date.** This act takes effect on January 1, 2006.

2 (END)

- 1 **AN ACT** *to amend* 6.22 (4) and 6.865 (3); and *to create* 6.865 (3m) of the statutes;
2 **relating to:** ballots for military electors.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, "military electors" are defined to be any of the following:

- Members of a uniformed service (i.e., the U.S. army, navy, air force, marine corps, or coast guard, the commissioned corps of the federal public health service or the national oceanic and atmospheric administration).
- Members of the U.S. merchant marine.
- Civilian employees of the U.S. and civilians officially attached to a uniformed service who are serving outside the U.S.
- Peace corps volunteers.
- Spouses and dependents of the above who reside with or accompany them.

In general, and with some exceptions, a military elector is to vote in the ward or election district for the address of his or her residence prior to becoming a military elector. In general, military electors are not required to register as a prerequisite to voting in any election.

A military elector may request an absentee ballot for any election, or for all elections until the individual otherwise requests or until the person no longer qualifies as a military elector. An absentee ballot application from a military elector may be received at any time. In general, as an alternative to a regular absentee ballot request form, a federal postcard registration and absentee ballot request form may be used to apply for an absentee ballot by a military elector if the municipal clerk can determine that the applicant is qualified to vote in the election district where he or she seeks to vote and that the applicant is qualified to receive an absentee ballot as a military elector.

For military electors who are in the uniformed service and on active duty, members of the merchant marine, and the spouse and dependents of such persons who are absent because of the duty or service of the member, current law also provides that such electors may request an absentee ballot for the next 2 general elections. A municipal clerk must comply with such a request except that no absentee ballot may be sent for a succeeding general election if the elector's name appeared on the registration list for a previous general election and no longer appears on the registration list for the succeeding general election. Further, if the elector's address for the succeeding general election is in a municipality that is different from the municipality in which the elector resided for the first general election, current law requires the clerk to forward the request to the clerk of the municipality where the elector resides.

A municipal clerk must send a ballot, as soon as available, to each military elector who requests a ballot. However, the clerk may not send a ballot for an election if the application is received later than 5:00 p.m. on the Friday preceding that election. Whenever absentee ballots are sent to military electors, they must be prepared and mailed to make use of the federal free postage laws.

This draft modifies current law to provide that every request by any military elector must be treated as a request for an absentee ballot for all subsequent elections. Under the draft, if a municipal clerk receives a request for an absentee ballot from a military elector, the municipal clerk must send an absentee ballot to the elector for all elections that occur after the request is received. The draft allows a military elector to provide an alternate address on the absentee ballot application and requires the municipal clerk to send an absentee ballot to that alternate address if a ballot sent to the elector's primary address is returned as undeliverable.

The draft authorizes a municipal clerk to stop sending a ballot to a military elector in the following situations: (1) if 2 successive general elections go by and a military elector fails to return an absentee ballot for any election during that time period; (2) if the clerk is reliably informed that the elector is no longer a military elector or no longer resides in the municipality; (3) if the elector is subject to a registration requirement and his or her name no longer appears on the registration list as an eligible elector; or (4) the elector so requests. Prior to discontinuing sending ballots to a military elector solely for the failure to return absentee ballots, the municipal clerk must notify the elector by mail that no future ballots will be sent unless the elector renews his or her absentee ballot request within 30 days. The draft also requires the municipal clerk to notify a military elector of any action to discontinue

sending ballots to the elector not taken at the elector's request within 5 days of taking that action, if possible.

This draft contains an effective date of January 1, 2006.

1 **SECTION 1.** 6.22 (4) of the statutes is amended to read:

2 6.22 (4) INSTRUCTIONS AND HANDLING. An (a) A request for an absentee ballot by an
3 individual who qualifies as a military elector may shall be treated as a request for an absentee
4 ballot for any election, or for all elections until the individual otherwise requests or until the
5 individual no longer qualifies as a military elector. Upon receiving a request for an absentee
6 ballot by an individual who qualifies as a military elector, the municipal clerk shall send or
7 transmit to the elector an absentee ballot for all elections that occur in the municipality or
8 portion thereof where the elector resides beginning on the date that the clerk receives the
9 request.

10 (b) A military elector's application may be received at any time. The municipal clerk
11 shall not send a ballot for an election if the application is received later than 5 p.m. on the
12 Friday preceding that election unless s. 6.87 (3) (d) applies. The municipal clerk shall send
13 a ballot, as soon as available, to each military elector who requests a ballot.

14 (c) A military elector may indicate an alternate address on his or her absentee ballot
15 application. If the elector's ballot is returned as undeliverable prior to the deadline for receipt
16 and return of absentee ballots under s. 6.87 (6) and the elector remains eligible to receive
17 absentee ballots under this section, the municipal clerk shall immediately send or transmit an
18 absentee ballot to the elector at the alternate address.

19 (d) The board shall prescribe the instructions for marking and returning ballots and the
20 municipal clerk shall enclose instructions with each ballot and shall also enclose supplemental
21 instructions for local elections. The envelope, return envelope and instructions may not

1 contain the name of any candidate appearing on the enclosed ballots other than that of the
2 municipal clerk affixed in the fulfillment of his or her duties.

3 (e) Whenever the material is mailed, the material shall be prepared and mailed to make
4 use of the federal free postage laws. The mailing list established under this subsection shall
5 be kept current in the same manner as provided in s. 6.86 (2) (b).

6 (f) If there occur 2 successive general elections at which a military elector fails to return
7 an absentee ballot sent or transmitted to the elector under par. (a) and the elector has not cast
8 an absentee ballot at any intervening election, if the ^{municipal} clerk is reliably informed that the elector
9 is no longer a military elector or no longer resides in the municipality, or if the elector so
10 requests, the clerk shall discontinue sending or transmitting absentee ballots to the elector
11 under this subsection. [If a military elector is subject to a registration requirement and the name
12 of a military elector no longer appears on the registration list as an eligible elector, the
13 municipal clerk shall discontinue sending or transmitting absentee ballots to the elector under
14 this subsection.] If a military elector who has requested an absentee ballot changes his or her
15 residence from the municipality where a request is filed to another municipality in this state,
16 the municipal clerk of the municipality who received the request shall notify the clerk of the
17 municipality to which the elector's residence is changed of the date of the request or the latest
18 renewal under par. (g) and the date of the most recent absentee ballot ^{received} returned by the clerk.
19 The municipal clerk who is so notified shall treat the request as having been made to him or
20 her.

21 (g) Prior to any discontinuance of the service provided to a military elector under this
22 subsection solely for failure to return absentee ballots, the municipal clerk shall mail the
23 elector a 1st class letter or postcard notifying the elector that an absentee ballot will no longer

CM
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6.22 (3)

1 be sent to the elector unless the elector renews his or her request within 30 days of the date
2 of the notification.

3 (h) The municipal clerk shall notify a military elector of any action under par. (f) that
4 is not taken at the elector's request within 5 days of taking that action, if possible.

5 **SECTION 2.** 6.865 (3) of the statutes is amended to read:

6 6.865 (3) If the elector making a timely request for an absentee ballot is a military elector
7 or an overseas elector and the elector requests that he or she be sent an absentee ballot for the
8 next 2 general elections, the municipal clerk or board of election commissioners shall comply
9 with the request except that no ballot shall be sent for a succeeding general election if the
10 elector's name appeared on the registration list for a previous general election and no longer
11 appears on the registration list for the succeeding general election. If the elector's address for
12 the succeeding general election is in a municipality that is different from the municipality in
13 which the elector resided for the first general election, the clerk or board of election
14 commissioners shall forward the request to the clerk or board of election commissioners of
15 the municipality where the elector resides.

16 **SECTION 3.** 6.865 (3m) of the statutes is created to read:

17 6.865 (3m) If the elector making a timely request for an absentee ballot is a military
18 elector, *as defined in s. 6.22(1)(b)*, the request shall be treated as provided under s. 6.22 (4).

19 **SECTION 4. Effective date.** This act takes effect on January 1, 2006.

20 (END)

1 **AN ACT** *to amend* 6.22 (4), 6.22 (5), 6.87 (6) and 9.01 (1) (b) (intro.); and *to create*
2 6.22 (5m) of the statutes; **relating to:** late arriving military ballots.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, absentee ballots must be returned to the municipal clerk in time for delivery to the polls before the polls close. Any ballot not delivered by this deadline may not be counted.

This draft provides that a ballot cast by a "military elector" that is received by the municipal clerk after the close of the polls may, in some situations, still be counted. Under the draft, such a ballot that is received after the polls close is considered a valid ballot if it is received by the clerk by the deadline for requesting a recount and if it contains a postal service cancellation mark dated on or before the election day for which the ballot was cast. However, under the draft these ballots will not be counted unless a recount occurs. For purposes of the draft, a "military elector" includes:

- Members of a uniformed service (i.e., the U.S. army, navy, air force, marine corps, or coast guard, the commissioned corps of the federal public health service or the national oceanic and atmospheric administration).
- Members of the U.S. merchant marine.
- Civilian employees of the U.S. and civilians officially attached to a uniformed service who are serving outside the U.S.
- Peace corps volunteers.
- Spouses and dependents of the above who reside with or accompany them.

Under the draft, a certificate envelope sent to a military elector must be clearly labeled so that when it is returned the clerk will know that it is from a military elector. If a certificate envelope that is returned by a military elector after the polls close but before the deadline for the return

of such ballots has an illegible postmark, or no postmark, it is presumed that the envelope was timely mailed, unless established otherwise.

The draft directs the municipal clerk to post in his or her office on election night and on an internet site a statement announcing the number of absentee ballots that have not been returned by military electors by the closing of the polls. However, the posting may not include the names or addresses of any military electors.

Under the draft, if a recount petition is filed, the municipal clerk must immediately notify the appropriate board of canvassers as to the number of absentee ballots that were timely received after the polls closed and whether any absentee ballots that were sent to military electors have not been returned. If there are unreturned ballots at the time a recount petition has been filed, the draft provides that the recount may not proceed until all such ballots are returned and delivered by the clerk or 9 a.m. on the day following the last day for filing a recount petition, whichever occurs first.

As soon as practicable after receiving the last late-arriving ballot but in no case later than 9 a.m. on the day following the last day for filing a recount petition, the clerk must transmit to the appropriate board of canvassers all of the late arriving military ballots received by the clerk.

When the board of canvassers conducting a recount receives late arriving absentee ballots cast by military electors, the board must first open and record the names of the military electors whose ballots have been received. If the late-arriving ballot cast by a military elector is otherwise valid, the board of canvassers must count the ballot and adjust the original statements, certifications, and determinations. After doing so, the board of canvassers may then begin the recount.

The draft contains an effective date of January 1, 2006.

- 1 **SECTION 1.** 6.22 (4) of the statutes is amended to read:
- 2 6.22 **(4)** INSTRUCTIONS AND HANDLING. An individual who qualifies as a military elector
- 3 may request an absentee ballot for any election, or for all elections until the individual
- 4 otherwise requests or until the individual no longer qualifies as a military elector. A military
- 5 elector's application may be received at any time. The municipal clerk shall not send a ballot
- 6 for an election if the application is received later than 5 p.m. on the Friday preceding that
- 7 election. The municipal clerk shall send a ballot, as soon as available, to each military elector

1 who requests a ballot. The board shall prescribe the instructions for marking and returning
2 ballots and the municipal clerk shall enclose instructions with each ballot and shall also
3 enclose supplemental instructions for local elections. The envelope, return envelope and
4 instructions may not contain the name of any candidate appearing on the enclosed ballots other
5 than that of the municipal clerk affixed in the fulfillment of his or her duties. Each certificate
6 envelope that is mailed or transmitted to a military elector under this section shall be clearly
7 labeled as "Cast by a military elector under s. 6.22, Wis. stats., and may be eligible to be
8 counted after election day". Whenever the material is mailed, the material shall be prepared
9 and mailed to make use of the federal free postage laws. The mailing list established under
10 this subsection shall be kept current in the same manner as provided in s. 6.86 (2) (b).

11 **SECTION 2.** 6.22 (5) of the statutes is amended to read:

12 6.22 (5) VOTING PROCEDURE. Except as authorized in sub. (5m) and s. 6.25, the ballot
13 shall be marked and returned, deposited and recorded in the same manner as other absentee
14 ballots. In addition, the certification under s. 6.87 (2) shall have a statement of the elector's
15 birth date. Failure to return any unused ballots in a primary election does not invalidate the
16 ballot on which the elector casts his or her votes.

17 **SECTION 3.** 6.22 (5m) of the statutes is created to read:

18 6.22 (5m) (a) A ballot cast under this section that is received by the municipal clerk
19 after the close of the polls but before the deadline for filing a recount under s. 9.01 (1) (a) shall
20 be treated as a valid vote if the envelope in which the ballot was received bears a postal service
21 cancellation mark dated on or before the election day for which the ballot was cast, but may
22 only be counted for purposes of a recount under s. 9.01.

23 (b) For purposes of par. (a), if a certificate envelope is not postmarked or has a postmark
24 that is not legible to the municipal clerk or board of canvassers, and the envelope was received

1 by mail from the U.S. postal service in the manner and within the period prescribed in sub.
2 (3), it is presumed that the envelope was placed in the mail on or before election day, unless
3 established by a preponderance of the evidence to the contrary.

4 (c) No later than the closing hour of the polls, the municipal clerk of each municipality
5 shall post at his or her office and on the Internet at a site announced by the clerk before the polls
6 open, and shall make available to any person upon request, a statement of the number of
7 absentee ballots that the clerk has mailed or transmitted to military electors under this section
8 and that have not been returned to the polling places where the electors reside by the closing
9 hour on election day. The posting shall not include the names or addresses of any military
10 electors.

11 (d) All ballots received by the municipal clerk under this subsection by the deadline
12 specified in par. (a) shall be carefully preserved, *until destruction is authorized under s. 7.23* subject to s. 7.23, by the municipal clerk. In
13 the event a petition for a recount is filed under s. 9.01, the clerk shall immediately notify the
14 appropriate board of canvassers as to whether any absentee ballots that have been mailed or
15 transmitted to military electors under this section have been received after the closing of the
16 polls or have not been returned.

17 (dm) If the clerk notifies the board of canvassers that any such ballots have not been
18 returned, the board of canvassers *shall* may not proceed with the recount until all such ballots have
19 been returned to the clerk and transmitted to the board of canvassers, or 9 a.m. on the day
20 following the last day for filing of a petition for a recount, whichever occurs first.

21 (e) The clerk shall transmit to the appropriate board of canvassers all ballots received
22 under par. (a) by the clerk as soon as practicable after receiving the last ballot but in no case
23 later than 9 a.m. on the day following the last day for filing a *petition for a* recount *petition* under s. 9.01.

1 (f) Whenever a board of canvassers conducting a recount receives absentee ballots cast
2 by military electors as provided in par. (c), the board of canvassers shall first proceed to open
3 and record the names of the military electors whose ballots have been received. If the ballot
4 cast by a military elector is otherwise valid, the board of canvassers shall count the ballot and
5 adjust the original statements, certifications, and determinations accordingly.

6 (g) The board of canvassers shall then proceed with the recount under s. 9.01 (1) (b).

7 6.25(1), (2), (4)(b), 6.87(3)(d)
SECTION 4. 6.87 (6) of the statutes is amended to read:

8 6.87 (6) The Except as provided in s. 6.22 (5m), the ballot shall be returned so it is
9 received by the municipal clerk in time for delivery to the polls before the closing hour. Any
10 Except as provided in s. 6.22 (5m), any ballot not mailed or delivered as provided in this
11 subsection may not be counted. 6.87(9)

12 9.01 (1)(a)(g) Im. & 2.
SECTION 5. 9.01 (1) (b) (intro.) of the statutes is amended to read:

13 9.01 (1) (b) (intro.) The Except as provided herein, the proper board of canvassers shall
14 reconvene no earlier than 9 a.m. on the day following delivery of notice to all candidates under
15 sub. (2) and no later than 9 a.m. on the day following the last day for filing of a petition and
16 proceed to recount the ballots in the wards or municipalities specified and to review the
17 allegations of fact contained in the petition or petitions. If s. 6.22 (5m) (dm) applies, the board
18 of canvassers shall ~~may not~~ proceed with the recount until 9 a.m. on the day following the last day
19 for filing of a petition and, if s. 6.22 (5m) (e) applies, shall ~~may not~~ proceed with the recount until
20 it complies with s. 6.22 (5m) (f). The recount shall proceed for each ward or municipality as
21 follows:

22 SECTION 6. **Effective date.** This act takes effect on January 1, 2006.

23 (END)

- 1 **AN ACT** *to repeal* 6.87 (3) (c); and *to amend* 6.24 (6), 6.87 (3) (a), 6.87 (3) (d) and
 2 10.01 (2) (e) of the statutes; **relating to:** return postage on absentee ballots.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, an elector may request and cast an absentee ballot if he or she is unable or unwilling to appear at the polls. If the municipal clerk sends an absentee ballot to an elector, the ballot must include sufficient return postage from anywhere within the United States. The draft deletes this requirement that absentee ballots be sent with return postage paid. Thus, a person who seeks to return an absentee ballot by mail would be required to supply the requisite postage. The draft also modifies the notice that a clerk must post to include the hours that an elector can cast an absentee ballot in the clerk's office.

The draft has an effective date of January 1, 2006.

- 3 **SECTION 1.** 6.24 (6) of the statutes is amended to read:

- 4 6.24 (6) INSTRUCTIONS AND HANDLING. The municipal clerk shall send a ballot, as soon
 5 as available, to each overseas elector by whom a request has been made. The board shall
 6 prescribe the instructions for marking and returning ballots and the municipal clerk shall
 7 enclose such instructions with each ballot. The envelope, return envelope and instructions
 8 may not contain the name of any candidate appearing on the enclosed ballots other than that
 9 of the municipal clerk affixed in the fulfillment of his or her duties. Except as authorized in
 10 s. 6.87 (3), the municipal clerk shall mail the material postage-prepaid with sufficient postage
 11 to ensure that the elector receives the ballot to any place in the world. The overseas elector
 12 shall provide return postage.

?
why
amend
to any place in the world
if the return envelope
qualifies
for free
postage
under federal
law, the clerk
shall affix
the appropriate
legend & instructions
U.S. postal regulations
U.S. District Court

1 **SECTION 2.** 6.87 (3) (a) of the statutes is amended to read:

2 6.87 (3) (a) Except as authorized under par. (d) and as otherwise provided in s. 6.875,
3 the municipal clerk shall mail the absentee ballot postage prepaid for return to the elector's
4 residence unless otherwise directed, or shall deliver it to the elector personally at the clerk's
5 office. If the ballot is mailed, the elector shall provide return postage. If the ballot is delivered
6 to the elector at the clerk's office, the ballots shall be voted at the office and may not be
7 removed therefrom.

NOTE: This SECTION eliminates the requirement that an absentee ballot
 be mailed with prepaid postage. The last sentence was moved from
 current s. 6.87 (3) (c), which is deleted by this draft.

8 **SECTION 3.** 6.87 (3) (c) of the statutes is repealed.

NOTE: Section 6.87 (3) (c) reads as follows: "If an elector's ballot is
 mailed to a location other than the elector's residence, it shall be prepaid
 for return when mailed within the United States. If the ballot is
 delivered to the elector at the clerk's office, the ballot shall be voted at
 the office and may not be removed therefrom". The first sentence is
 deleted because the draft eliminates the requirement that the clerk mail
 ballots with prepaid postage. The second sentence has been moved to s.
 6.87 (3) (a).

9 **SECTION 4.** 6.87 (3) (d) of the statutes is amended to read:

10 6.87 (3) (d) A municipal clerk of a municipality may, if the clerk is reliably informed
11 by an absent elector of a facsimile transmission number or electronic mail address where the
12 elector can receive an absentee ballot, transmit a facsimile or electronic copy of the absent
13 elector's ballot to that elector in lieu of mailing under this subsection if, in the judgment of the
14 clerk, the time required to send the ballot through the mail may not be sufficient to enable
15 return of the ballot by the time provided under sub. (6). An elector may receive an absentee
16 ballot under this subsection only if the elector has filed a valid application for the ballot under
17 sub. (1). If the clerk transmits an absentee ballot under this paragraph, the clerk shall also

unless the ballot is qualified for delivery from the postage under federal law

2 why amend?

1 transmit a facsimile or electronic copy of the text of the material that appears on the certificate
2 envelope prescribed in sub. (2), together with instructions prescribed by the board. The
3 instructions shall require the absent elector to make and subscribe to the certification as
4 required under sub. (4) and to enclose the absentee ballot in a separate envelope contained
5 within a larger envelope, that shall include the completed certificate. The elector shall then
6 mail the absentee ballot with postage prepaid to the municipal clerk. Except as authorized in
7 s. 6.97 (2), an absentee ballot received under this paragraph shall not be counted unless it is
8 cast in the manner prescribed in this paragraph and in accordance with the instructions
9 provided by the board.

10 **SECTION 5.** 10.01 (2) (e) of the statutes is amended to read:

11 10.01 (2) (e) Type E—The type E notice shall state the qualifications for absentee
12 voting, the procedures for obtaining an absentee ballot in the case of registered and
13 unregistered voters, and the places and the deadlines for application and return of application,
14 and the office hours during which an elector may cast an absentee ballot in the municipal
15 clerk's office. The municipal clerk shall publish a type E notice on the 4th Tuesday preceding
16 each spring primary and election, on the 4th Tuesday preceding each September primary and
17 general election, on the 4th Tuesday preceding the primary for each special national, state,
18 county or municipal election if any, on the 4th Tuesday preceding a special county or
19 municipal referendum, and on the 3rd Tuesday preceding each special national, state, county
20 or municipal election to fill an office which is not held concurrently with the spring or general
21 election. The clerk of each special purpose district which calls a special election shall publish
22 a type E notice on the 4th Tuesday preceding the primary for the special election, if any, on
23 the 4th Tuesday preceding a special referendum, and on the 3rd Tuesday preceding a special

1 election for an office which is not held concurrently with the spring or general election except
2 as authorized in s. 8.55 (3).

NOTE: This SECTION modifies the notice that a clerk must post to include
the hours that an elector can cast an absentee ballot in the clerk's office.

3 **SECTION 6. Effective date.** This act takes effect on January 1, 2006.

4 (END)

1 **AN ACT** *to amend* 6.87 (3) of the statutes; **relating to:** the mailing of absentee
2 ballots.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, if an elector requests an absentee ballot, the municipal clerk is directed to mail an absentee ballot to the residence of the elector, unless the elector specifies a different mailing address. An elector may not specify that a ballot be sent to the address of a candidate, political party, or campaign finance registrant, unless the elector resides there. If an elector has applied for an absentee ballot and there may not be time to return the ballot, a clerk may send a ballot to a fax number or electronic mail address.

This draft specifies that absentee ballots may only be sent to an elector's permanent or temporary address.

The draft contains an effective date of January 1, 2006.

3 **SECTION 1.** 6.87 (3) ^(a) of the statutes is amended to read:

4 6.87 (3) (a) Except as authorized under par. (d) and as otherwise provided in s. 6.875,
5 the municipal clerk shall mail the absentee ballot [postage prepaid for return] to the elector's
6 temporary or permanent residence ~~unless otherwise of the elector, as directed by the elector,~~
7 or shall deliver it to the elector personally at the clerk's office.

COMMENT: The issue of whether absentee ballots should be mailed with prepaid postage has been raised in connection with the issue of encouraging absentee voting in the clerk's office. The language is bracketed here to reflect that pending decision.

8 ~~(b) No elector may direct that a ballot be sent to the address of a candidate, political party~~
9 ~~or other registrant under s. 11.05 unless the elector permanently or temporarily resides at that~~

1 ~~address.~~ Upon receipt of reliable information that an address given by an elector is not eligible
2 to receive ballots under this paragraph, the municipal clerk shall refrain from ~~sending mailing~~
3 or transmitting ballots to that address. Whenever possible, the municipal clerk shall notify an
4 elector if his or her ballot cannot be mailed or transmitted to the address directed by the elector.

5 (c) If an elector's ballot is mailed to a location other than the elector's residence, it shall
6 be prepaid for return when mailed within the United States. If ~~the~~ an elector's ballot is
7 delivered to the elector at the clerk's office, the ballot shall be voted at the office and may not
8 be removed therefrom.

COMMENT: The issue of whether absentee ballots should be mailed with prepaid postage has been raised in connection with the issue of encouraging absentee voting in the clerk's office. The language is bracketed here to reflect that pending decision.

9 (d) A municipal clerk of a municipality may, if the clerk is reliably informed by an
10 absent elector of a facsimile transmission number located at the permanent or temporary
11 address of the elector or electronic mail address where the elector can receive an absentee
12 ballot, transmit a facsimile or electronic copy of the absent elector's ballot to that elector in
13 lieu of mailing under this subsection if, in the judgment of the clerk, the time required to send
14 the ballot through the mail may not be sufficient to enable return of the ballot by the time
15 provided under sub. (6). An elector may receive an absentee ballot under this subsection only
16 if the elector has filed a valid application for the ballot under sub. (1). If the clerk transmits
17 an absentee ballot under this paragraph, the clerk shall also transmit a facsimile or electronic
18 copy of the text of the material that appears on the certificate envelope prescribed in sub. (2),
19 together with instructions prescribed by the board. The instructions shall require the absent
20 elector to make and subscribe to the certification as required under sub. (4) and to enclose the
21 absentee ballot in a separate envelope contained within a larger envelope, that shall include

1 the completed certificate. The elector shall then mail the absentee ballot with postage prepaid
2 to the municipal clerk. Except as authorized in s. 6.97 (2), an absentee ballot received under
3 this paragraph shall not be counted unless it is cast in the manner prescribed in this paragraph
4 and in accordance with the instructions provided by the board.

5 **SECTION 2. Effective date.** This act takes effect on January 1, 2006.

6 (END)

1 **AN ACT** *to amend* 6.88 (1) and (3) (a); and *to create* 6.88 (3) (c) of the statutes;
2 **relating to:** the opening of absentee ballots.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, absentee ballots must be opened at the polling place during poll hours. When the envelope is opened, the inspector is required to announce the name or serial number of the absent elector.

The draft adds language to ensure that the process of recording absentee ballots is done publicly.


This draft contains an effective date of January 1, 2006.

3 **SECTION 1.** 6.88 (1) and (3) (a) of the statutes are amended to read:

4 **6.88 (1)** When an absentee ballot arrives at the office of the municipal clerk, the clerk
5 shall enclose it, unopened, in a carrier envelope which shall be securely sealed and endorsed
6 with the name and official title of the clerk, and the words "This envelope contains the ballot
7 of an absent elector and must be opened in the same room where votes are being cast at the
8 polls during polling hours on election day". If the ballot was received by the elector by
9 facsimile transmission or electronic mail and is accompanied by a separate certificate, the
10 clerk shall enclose the ballot in a certificate envelope and securely append the completed
11 certificate to the outside of the envelope before enclosing the ballot in the carrier envelope.
12 The clerk shall keep the ballot in the clerk's office until delivered, as required in sub. (2).

13 **(3) (a)** Any time between the opening and closing of the polls on election day, the
14 inspectors shall, in the same room where votes are being cast, open the carrier envelope only,

from
5/2



1 and in such a manner that a member of the public, if he or she desired, could hear and see the
2 procedures announce the name of the absent elector or the identification serial number of the
3 absent elector if the elector has a confidential listing under s. 6.47 (2). When the inspectors
4 find that the certification has been properly executed, the applicant is a qualified elector of the
5 ward or election district, and the applicant has not voted in the election, they shall enter an
6 indication on the poll list next to the applicant's name indicating an absentee ballot is cast by
7 the elector. They shall then open the envelope containing the ballot in a manner so as not to
8 deface or destroy the certification thereon. The inspectors shall take out the ballot without
9 unfolding it or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95,
10 the inspectors shall verify that the ballot has been endorsed by the issuing clerk. If the poll
11 list indicates that identification is required and no identification is enclosed or the name or
12 address on the document that is provided is not the same as the name and address shown on
13 the poll list, the inspectors shall proceed as provided under s. 6.97 (2). The inspectors shall
14 then deposit the ballot into the proper ballot box and enter the absent elector's name or voting
15 number after his or her name on the poll list in the same manner as if the elector had been
16 present and voted in person.

17 **SECTION 2. Effective date.** This act takes effect on January 1, 2006.

18 (END)

1 **AN ACT** *to repeal* 12.13 (4); *to amend* 6.875 (4) and (6) and 12.60 (1) (c); and *to*
2 *create* 6.875 (7) of the statutes; **relating to:** absentee voting in nursing homes,
3 qualified retirement homes, and qualified community-based residential facilities.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on election law review.

Under current law, there is a separate procedure for absentee voting by residents of nursing homes, qualified community-based residential facilities, and qualified retirement homes. If a resident of such a facility requests an absentee ballot, the clerk will arrange a time to send 2 special deputies to the facility to facilitate the residents in voting absentee.

This draft requires the municipal clerk to maintain a list, available to the public, of all of the facilities where an absentee ballot has been requested, including when the special deputies will be visiting the facility. In addition, the clerk must post a notice at the facility indicating when the special deputies will be visiting. The draft also allows one inspector from each of the recognized political parties whose candidate for governor or president received the greatest numbers of votes in the municipality at the most recent general election to send an observer with the deputies. The deputies are given the same authority as the chief election inspector to monitor this observer's conduct.

This draft contains an effective date of January 1, 2006.

4 **SECTION 1.** 6.875 (4) and (6) of the statutes are amended to read:
5 6.875 (4) For the purpose of absentee voting in nursing homes and qualified retirement
6 homes and qualified community-based residential facilities, the municipal clerk or board of
7 election commissioners of each municipality in which one or more nursing homes or qualified
8 retirement homes or qualified community-based residential facilities are located shall appoint
9 at least 2 special voting deputies for the municipality. Upon application under s. 6.86 (1) or

1 (2) by one or more qualified electors who are occupants of such a nursing home or qualified
2 retirement home or qualified community-based residential facility, the clerk or board of
3 election commissioners shall dispatch 2 special voting deputies to visit the home or qualified
4 community-based residential facility for the purpose of supervising absentee voting
5 procedure by occupants of the home or qualified community-based residential facility. The
6 clerk shall maintain a list, available to the public upon request, of each nursing home or
7 qualified retirement home or qualified community-based residential facility where an elector
8 has requested an absentee ballot. The list shall include the date and time the deputies intend
9 to visit each ^{home or} ~~facility.~~ The 2 deputies designated to visit each nursing home or qualified
10 retirement home and qualified community-based residential facility shall be affiliated with
11 different political parties whenever deputies representing different parties are available.
12 Nominations for deputy positions may be submitted by the 2 recognized political parties
13 whose candidates for governor or president received the greatest numbers of votes in the
14 municipality at the most recent general election. The deputies shall be specially appointed to
15 carry out duties under this section for the period specified in s. 7.30 (6) (a). The clerk or board
16 of election commissioners may revoke an appointment at any time. No individual who is
17 employed or retained, or within the 2 years preceding appointment has been employed or
18 retained at a nursing home or qualified retirement home or qualified community-based
19 residential facility in the municipality, or any member of the immediate family of such an
20 individual as defined in s. 19.42 (7), may be appointed to serve as a deputy.

21 (6) Special voting deputies in each municipality shall, not later than 5 p.m. on the Friday
22 preceding an election, arrange one or more convenient times with the administrator of each
23 nursing home, qualified retirement home, and qualified community-based residential facility
24 in the municipality from which one or more occupants have filed an application under s. 6.86

1 to conduct absentee voting for the election. The time may be no earlier than the 4th Monday
2 preceding the election and no later than 5 p.m. on the Monday preceding the election. [Upon
3 request of a relative of an occupant of a nursing home or qualified retirement home or qualified
4 community-based residential facility, the administrator may notify the relative of the time or
5 times at which special voting deputies will conduct absentee voting at the home or facility, and
6 permit the relative to be present in the room where the voting is conducted.] The municipal
7 clerk shall post a notice at the ^{home or} facility indicating the date and time that absentee voting will
8 take place at that facility. ^{home or} The notice shall be posted as soon as practicable after arranging
9 the visit but in no case less than 24 hours before the visit. At the designated time, 2 deputies
10 appointed under sub. (4) shall visit the home or facility. The municipal clerk or executive
11 director of the board of election commissioners shall issue a supply of absentee ballots to the
12 deputies sufficient to provide for the number of valid applications received by the clerk, and
13 a reasonable additional number of ballots. ^{The deputies} Each deputy may exercise the authority granted
14 to the chief inspector under s. 7.41. ^{to regulate the conduct of observers for proposed} The municipal clerk or executive director shall keep a
15 careful record of all ballots issued to the deputies and shall require the deputies to return every
16 ballot issued to them. The deputies shall personally offer each elector who has filed a proper
17 application the opportunity to cast his or her absentee ballot. If an elector is present who has
18 not filed a proper application, the 2 deputies may accept an application from the elector and
19 shall issue a ballot to the elector if the elector is qualified and the application is proper. The
20 deputies shall each witness the certification and may, upon request of the elector, assist the
21 elector in marking the elector's ballot. Upon request of the elector, a relative of the elector
22 who is present in the room may assist the elector in marking the elector's ballot. All voting
23 shall be conducted in the presence of the deputies. No individual other than a deputy may
24 witness the certification and no individual other than a deputy or relative of an elector may

why strike?
don't strike

The
application
of s 7.41
the home
or facility
shall be
treated as
a filing
place.

1 render voting assistance to the elector. Upon completion of the voting, the deputies shall
2 promptly deliver, either personally or by 1st class mail, any absentee ballot applications and
3 the sealed certificate envelope containing each ballot to the clerk or board of election
4 commissioners of the municipality in which the elector casting the ballot resides, within such
5 time as will permit delivery to the polling place serving the elector's residence on election day.
6 Personal delivery may be made by the deputies no later than noon on election day. If a
7 qualified elector is not able to cast his or her ballot on 2 separate visits by the deputies to the
8 home or facility, they shall so inform the municipal clerk or executive director of the board
9 of election commissioners, who may then send the ballot to the elector no later than 5 p.m. on
10 the Friday preceding the election.

NOTE: This SECTION modifies current law to require the municipal clerks to keep a list of the facilities that special deputies are going to visit and the time and date of the scheduled visit. The list must be made available to the public upon request. In addition, this SECTION requires the municipal clerk to post a notice in each facility indicating the date and time of absentee voting. The notice must be posted as soon as practicable after arranging the visit but in no case less than 24 hours before the visit. Finally, this SECTION authorizes each deputy to exercise the power of a chief inspector as it concerns the conduct of observers at the facility.

COMMENT: Originally the committee requested that the notice be posted 7 to 10 days before the facility visit. This presented a problem insofar as this statute authorizes a visit to be arranged up until the Friday before the election. Is "as soon as practicable after arranging the visit but in no case less than 24 hours" sufficient?

11 **SECTION 2.** 6.875 (7) of the statutes is created to read:

12 6.875 (7) One observer from each of the 2 recognized political parties whose candidate
13 for governor or president received the greatest number of votes in the municipality at the most
14 recent general election may accompany the deputies to each facility where absentee voting
15 will take place under this section. The observers may observe the process of absentee ballot

1 distribution in the common areas of the facility. Each party wishing to have an observer
2 present shall submit the name of the observer to the clerk or board of election commissioners
3 *no later than the close of business on the last business*
one day prior to the visit.

NOTE: This SECTION authorizes one observer from each political party to observe the process of absentee voting.

4 *Am 12.03(2)*
SECTION 3. 12.13 (4) of the statutes is repealed.

5 **SECTION 4.** 12.60 (1) (c) of the statutes is amended to read:

6 12.60 **(1)** (c) Whoever violates s. 12.13 (3) (am) or (4) may be required to forfeit not
7 more than \$500.

NOTE: SECTIONS 3 and 4 repeal the prohibition on revealing the time that absentee voting will take place in a nursing or retirement home and the corresponding penalty.

8 **SECTION 5. Effective date.** This act takes effect on January 1, 2006.

9 (END)